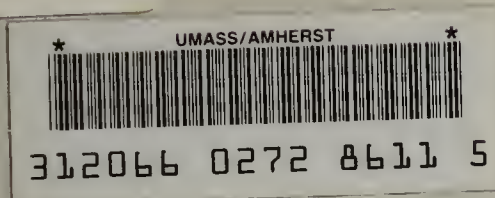


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MASSACHUSETTS CONSUMERS' COUNCIL

Annual Report

Fiscal Year 1976

Doris R. Pote'  
Chairman

Bruce A. Singal  
Executive Secretary

Publication # 9279-18-1000-10-76-CR  
Approved by Alfred C. Holland, State Purchasing Agent



REPORT OF

MASSACHUSETTS CONSUMERS' COUNCIL

JULY 1, 1976, TO JANUARY 1, 1978

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Doris R. Pote'  
Chairman

Richard A. Borten  
Executive Secretary

PUBLICATION: # 10347-17-500-4-78-CR  
APPROVED by Alfred C. Holland, State Purchasing Agent





# *The Commonwealth of Massachusetts*

## *Consumers' Council*

*Leverett Saltonstall Building, Government Center*  
*100 Cambridge Street, Boston 02202*

DORIS R. POTE'  
CHAIRMAN

RICHARD A. BORTEN  
EXECUTIVE SECRETARY

(617) 727-2605

Dear Consumer:

The Massachusetts Consumers' Council is proud to present this report which, I think, reflects a wide variety of ambitious projects. These projects are aimed, primarily, at attempting to help reduce the staggering cost of living in today's marketplace, to help improve the quality of consumer goods and services, and to provide consumers with the information they need to be informed and aware consumers.

These are not unique objectives, and they are concededly difficult to attain. The Consumers' Council pledges its continued commitment to them, and hopes and believes that its efforts will help to improve the quality of life for the consumers of this Commonwealth.

Very truly yours,

*Doris R. Pote'*

Doris R. Pote'  
Chairman

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## TABLE OF CONTENTS

|  | <u>Page</u> |
|--|-------------|
| I. The Massachusetts Consumers' Council                        |             |
| Introduction   | 1           |
| II. Representing Consumers Before Other Agencies               | 2           |
| 1. Repeal of Advertising Bans                                  | 2           |
| 2. Rent Control  | 2           |
| 3. Alcoholic Beverage Control Commission                       | 2           |
| 4. Public Health   | 3           |
| 5. Proposed Cable TV Regulations                               | 3           |
| 6. Board of Registration of Architects                         | 3           |
| 7. FTC   | 3           |
| 8. Insurance Division  | 3           |
| 9. Department of Public Health                                 | 3           |
| 10. HEW  | 3           |
| 11. Board of Registration in Pharmacy                          | 3           |
| 12. Rate Setting Commission                                    | 4           |
| 13. Attorney General   | 4           |
| 14. Board of Registration of Dental Examiners                  | 4           |
| 15. Oil Industry   | 4           |
| 16. Division of Standards and Sealers<br>of Weights & Measures | 4           |
| 17. Coffee Boycott   | 4           |
| 18. Board of Registration in Optometry                         | 5           |
| 19. Health Care Legislative Committee                          | 5           |
| 20. Department of Public Health                                | 5           |
| 21. Department of Public Utilities                             | 5           |
| 22. Lahey Clinic   | 5           |
| 23. Division of Insurance                                      | 6           |
| 24. Electronic Funds Transfer Systems                          | 6           |
| 25. U. S. Supreme Court  | 6           |
| 26. Supreme Judicial Court                                     | 6           |
| 27. Automobiles  | 6           |
| III. Consumer Education  | 7           |
| 1. Teacher Training  | 7           |
| 2. Publications  | 8           |
| 3. Other Publications  | 8           |
| 4. Public Service Announcements                                | 8           |
| 5. Consumer Contracts  | 9           |
| IV. Consumer Legislation                                       | 10          |
| V. Warnings and Alerts (News Releases)                         | 13          |
| VI. Public Information Efforts (Press Conferences)             | 14          |



I. The Massachusetts Consumers' Council: Introduction

The Massachusetts Consumers' Council is an independent agency which serves as a public advocate for consumer interests. Created by statute (Chapter 6, Section 115, of the Massachusetts General Laws) in 1963, the Council represents consumers before state and federal agencies, seeks the passage of consumer legislation, promotes consumer education, regulates unit pricing of food and other items, and otherwise protects and informs the consumers of the Commonwealth.

The Council is comprised of thirteen members who meet once a month to establish Council policies and authorize Council activities. Eight are public members appointed by the Governor, and five are "ex officio" members from other state agencies: the Attorney General, Chairman of the Department of Public Utilities, and Commissioners of the Departments of Labor and Industries, and the Division of Banks and Insurance.

The Council has a small staff which initiates proposals to the Council members and implements the policies and activities set by the Council. For most of the time period covered by this report the staff has consisted of the Council's Executive Secretary, two Attorneys, an Information Coordinator, two Field Investigators, an Administrative Clerk, and two Secretaries. The budget for fiscal year 1977 was \$172,582.00. The budget for fiscal year 1978 is \$190,000.00.

This report is written to inform the public of the activities of the Massachusetts Consumers' Council which was sworn in by Governor Dukakis in July of 1975. The Council's effectiveness is dependent on its being both responsive and responsible to the consuming public, and it is with these objectives in mind that we present this report. The report covers primarily the activities undertaken from July 1, 1976, to January 1, 1978.

## II. Representing Consumers Before Other Agencies

One of the most vital functions which the Council performs is to serve as advocate protecting the interests of consumers before state and regulatory bodies. At a time when a wide variety of businesses and professions are licensed or regulated by various agencies, it is essential that consumers be represented by a forceful and independent voice before those agencies. It is this role that the Consumers' Council seeks to play, whether in urging the agency to adopt regulations to aid and protect consumers, to suspend or revoke licenses of businesses the Council has found to be violating the law, or to reduce rate increases sought by health care facilities, utilities, insurance, small loan companies, or others. During the past year, the Council has been involved in a number of such proceedings, as follows:

1. Repeal of Advertising Bans - The Council has taken action to eliminate all Massachusetts statutory and regulatory bans on the advertising of professional goods and services. It has petitioned the boards of registration to drop regulations restricting advertising in the following professions: architecture, pharmacy, psychology, public accountancy, dentistry, electrolysis, and embalming and funeral directing. It plans to file suit against those boards denying the petitions. Meanwhile, a suit was filed against the Board of Registration in Optometry, prompted by its 1975 adoption of a regulation prohibiting advertising. As a result of this suit the Board held a hearing and has now adopted a new regulation permitting optometrists to advertise. Finally, the Council has drafted a bill, now before the Legislature, that amends laws restricting or prohibiting advertising by podiatrists, chiropractors, dentists, electrologists, and embalmers and funeral directors. Various other professions restrict advertising through self-imposed codes of ethics, and appropriate action to remove these restrictions is being considered.

2. Rent Control - The Council appeared at a hearing of the Boston Rent Control Board to oppose the automatic pass-through of tax increase to tenants in the form of higher rents, without review by the Rent Board.

3. Alcoholic Beverage Control Commission - The Council urged the Alcoholic Beverage Control Commission to commence an investigation of allegations of social discrimination by clubs and discotheques in Boston.



4. Public Health - The Council testified at a Department of Public Health hearing on proposed food labeling regulations and submitted a brief thereon.

5. Proposed Cable TV Regulations - The Council submitted testimony to the Cable TV Commission on proposed rules governing the procedures of their hearings.

6. Board of Registration of Architects - The Council attended a hearing of the Board of Registration of Architects in support of its petition to remove their ban on advertising by architects.

7. FTC - The Council appeared and gave testimony before the Federal Trade Commission regarding proposed regulations governing the sale of motor vehicles.

8. Insurance Division - The Council participated in a hearing before the Insurance Division regarding discounts for persons who purchased approved anti-theft devices. Evaluation of all the devices demonstrated at the hearing was done by Foster-Miller Associates, Inc., and recommendations as to which should be approved and how much of a discount should be awarded were made.

The Council submitted written testimony to the Insurance Division regarding regulations being promulgated for a merit rating plan under the new auto insurance damage law.

9. Department of Public Health - The Council submitted to the Food & Drug Division of the Department of Public Health a response to comments by the American Meat Institute on the Council's original brief in the matter of proposed food labeling regulations.

10. HEW - The Council urged the U. S. Department of Health, Education and Welfare to approve a set of proposed regulations that would give for the first time health care consumers valuable information about doctors and hospitals. The regulations drafted by the Council required that certain types of information compiled by Professional Standards Review Organizations (PSROs) be made available to the public.

11. Board of Registration in Pharmacy - As a result of the investigation of pharmacy practices conducted by the Council in Greater Boston last summer, the Massachusetts Board of Registration in Pharmacy is

considering adopting regulations to require pharmacists to give advice, instruction and warning to consumers.

12. Rate Setting Commission - The Council appeared before the Rate Setting Commission and gave testimony on proposed regulations to implement the hospital cost control bill. The regulations established the formula and procedures by which the Commission would approve or disapprove those increases submitted by hospitals.

13. Attorney General - The Council was represented at the Attorney General's Advisory Committee on debt collection regulations which defined various types of debt collection practices considered unfair and deceptive acts or practices in violation of the Consumer Protection Act.

14. Board of Registration of Dental Examiners - The Council appeared before the Board of Registration of Dental Examiners relative to the Council's petition for the repeal of bans on advertising.

15. Oil Industry - The Council held a hearing on the impact of self-service gasoline stations and other practices of the oil industry on Massachusetts consumers, as a result of the rising price of gasoline and the possibility of losing full-service gasoline stations to the rapidly growing number of self-service gasoline stations in the state.

16. Division of Standards and Sealers of Weights & Measures - The Council developed a Unit Pricing Report of retail food outlets citing which outlets had submitted or not submitted their labels and signs, and whether or not the submitted labels and signs had been approved or not. The report was sent to the Division of Standards and all the Sealers of Weights & Measures throughout the state.

17. Coffee Boycott - The Council urged Massachusetts consumers to "join the coffee boycott" and send a message to Brazil - in an effort to exert market pressure as the only way to demonstrate to coffee producers that Massachusetts will not tolerate the outrageous Brazilian coffee prices. In a related action, the Council sent a letter to the then newly-designated Speaker of the U. S. House of Representatives, Congressman Thomas P. O'Neill, requesting that an appropriate Congressional Committee launch a full-scale investigation into the spiraling cost of coffee.



18. Board of Registration in Optometry - The Council held a hearing in an effort to reach a settlement in the case of Consumers' Council vs. Board of Registration in Optometry - to appeal, formally, the advertising prohibition adopted in a regulation by the Board in 1975, and to consider, in its stead, a proposed regulation allowing advertising within certain guidelines. The suit was later concluded when the Board adopted a new rule permitting advertising within certain guidelines.

19. Health Care Legislative Committee - The Council appeared before the Health Care Legislative Committee in regard to H. 46 - an Act assessing health care providers and establishing a fund for consumer representation before the Rate Setting Commission. The objective of the bill was to ensure ongoing and expert representation of consumers' interests before the Rate Setting Commission in connection with requests by health care facilities for increases in rates and charges and before other agencies in proceedings affecting the cost or quality of health care.

20. Department of Public Health - The Council proposed that food manufacturers be required to "open code date" non-perishable food items to ensure their quality and freshness when they are purchased and consumed. In conjunction with this, it released a comprehensive report urging the Department of Public Health to adopt a proposed regulation for non-perishable food items.

21. Department of Public Utilities - The Council conducted an investigation of towing practices in Greater Boston revealing over-charges for towing and storage, failure to itemize bills, verbal abuse and intimidation, damage to towed vehicles, and incorrect or inadequate public information on rates and "tow-away" zones.

The Council praised a ruling by the Department of Public Utilities ordering New England Telephone to list wives jointly with their husbands in the phone directory at no extra charge, and to permit wives to be billed jointly with their husbands, thereby giving married women equal status with their husbands as customers of the telephone company.

22. Lahey Clinic - The Council filed a motion in Superior Court regarding Lahey Clinic on behalf of

"Concerned Citizens for Health Care Choice," a Burlington area group supporting the proposed Lahey Clinic facility in Burlington.

23. Division of Insurance - The Council testified before the Division of Insurance in an effort to bring about a constructive and meaningful change to the auto insurance system which would benefit, economically, the Massachusetts consumer.

24. Electronic Funds Transfer Systems - The Council conducted a hearing on the potential impact of the "electronic funds transfer systems" which is expected to revolutionize the banking industry if allowed in Massachusetts - investigating both the potential benefits and dangers to consumers. In conjunction with the hearing the Council formed an EFTS Advisory Committee composed of banking officials, retail merchants, consumer advocates, elder affairs experts, computer experts and representatives of labor.

25. U. S. Supreme Court - The Council hailed as a "landmark victory for consumers" a ruling by the U. S. Supreme Court that bans on legal advertising were illegal. It warned that it would continue to take legal action against them if they do not reveal their bans on advertising.

26. Supreme Judicial Court - The Council petitioned the Supreme Judicial Court to repeal ban on attorney advertising. The Council also submitted proposed new Rules of Ethics and a brief in the matter.

27. Automobiles - The Council held a hearing on the major problems faced by consumers in the sale and repair of automobiles. The major problems included, but were not limited to, were: dealer-manufacturer relationships and proposed regulatory remedies for abuse in the sale and repair of automobiles including licensing of mechanics. Including those invited to testify were: members of Congress, state legislators, manufacturers, dealers, consumer organizations and the consuming public.



### III. Consumer Education

The Council is charged with the statutory mandate of promoting consumer education. This is a task of paramount importance to consumers of this Commonwealth. In Massachusetts we are privileged to have some of the best consumer protection laws in the country. Unfortunately, however, few of our citizens know how to use these laws to protect themselves from the pitfalls of the marketplace. The Massachusetts Consumers' Council is committed to educating the public as to how common consumer problems can be avoided, and what legal rights and remedies they can exercise - in many cases without an attorney - to resolve these problems if and when they do arise. Primarily through the schools and media, the Council is seeking to convey this important message, and to help people become aware, enlightened, and self-reliant consumers.

1. Teacher Training - In the fall of 1976 the Council expanded its statewide teaching program, initiated in the spring, designed to train teachers to teach consumer education classes - with emphasis on legal rights and remedies for various types of consumer protection problems. The fall course which started on September 28 included ten-week courses in Boston (taught by Bruce A. Singal, the Council's Executive Secretary), Worcester (taught by Hugh O'Malley, Esq.), Springfield (taught by Michael West, Esq.), and New Bedford (taught by Robert Cohan, Esq.) - with authoritative guest lecturers participating. In all, attendance for the fall course totaled 243 teachers - with eleven teachers being awarded graduate credit from Boston, Framingham, Worcester and Bridgewater State Colleges. The 16-mm film: "Gotcha" comprising a series of vignettes and portraying typical consumer problems and legal means of resolving the problems were made available and used by the teachers.

In the spring of 1977 the Council continued its program to train teachers to teach consumer education classes in and around Boston. Taught by Bruce A. Singal - with guest lecturers participating - the course was attended by approximately 64 teachers. Five teachers were awarded graduate credits. The film: "Gotcha" was again made available and used by the teachers.

This program is premised on the twin beliefs that schools are the best forum in which to educate intensively large classes of consumers and that the



first necessary step in accomplishing this is to train, effectively, the people who will do the teaching.

2. Publications - A third printing of the Council's widely acclaimed manual: YOU CAN GET RESULTS, a comprehensive description of Massachusetts consumer protection laws and ways in which lay persons can use them, has been undertaken - now totaling 17,000 copies to be distributed and used by Massachusetts consumers.

A second printing of the booklet: HOW TO SUE IN MASSACHUSETTS SMALL CLAIMS COURT, written by Mass. PIRG, and distributed by the Council, now brings the total to 40,000 copies that have been, and are being sent, to the Small Claims Courts throughout the state - as well as to teachers and consumers.

The Council participated in partial sponsorship of the 96-page paperback book: CAR-FREE IN BOSTON; USERS GUIDE TO PUBLIC TRANSPORTATION IN GREATER BOSTON AND NEW ENGLAND, published by the Association of Public Transportation. The book was offered through the usual book-store outlets.

A pamphlet: WHAT YOU SHOULD KNOW IF YOUR CAR IS TOWED was offered by the Council based on the fact that each year thousands of cars in Massachusetts are towed for charges totaling nearly \$6 million. The pamphlet was done in a Question-and-Answer format informing the car owner what he or she should know when the car is towed and reclaimed.

The Council continues to distribute the following helpful consumer materials: A SHOPPERS' GUIDE TO PRESCRIPTION DRUG BUYING, NUTRITION EDUCATION CENTERS FOR THE COMMONWEALTH, and DID YOU BUY A LEMON...ON CREDIT?

3. Other Publications - Approximately 50,000 copies of the most recent newsletter: THE COMMONWEALTH LETTER, containing highlights of the Council's major activities, educational tips for consumers and other consumer news, has been printed and will be distributed to all public libraries, labor unions, consumer advisory groups, colleges, banks, savings and loan associations and credit unions, legislators, U. S. Representatives and Senators, and all District and Small Claims Courts.

4. Public Service Announcements - Because the media offer such a great opportunity for reaching large masses of people with helpful, educational messages, the Council placed 4 different public service announcements (one 20-second, one 30-second, and two one-minute

announcements) with the eight major TV stations throughout the state. The public service announcements featured Doris R. Pote', Chairman of the Council, offering the self-help manual: YOU CAN GET RESULTS - with each announcement having a different lead-in that centered on a particular problem. Response was so tremendous that a third printing of 6,000 more copies had to be ordered.

5. Television Interviews - Two members of the Council: Carolyn Kelleher, Assistant Attorney General, and John Kellogg, Insurance Division, were interviewed, individually, on two half-hour programs of the KITTY BROMAN SHOW, WWLP-Channel 22, Springfield, on November 1 and December 6, respectively. Each program consisted of 10-minute interviews between the representatives from the state agencies and Mrs. Broman and 20-minute question-and-answer periods from consumers calling in.

6. Consumer Contracts - Since consumers are constantly presented with one-sided agreements which are written by and for business - and offered to consumers on a take-it-or-leave-it basis - the Council has continued to distribute a home improvement/repair contract designed to ensure that consumers enter into agreements that contain fair, equitable, and legal terms. This is the second printing of this very helpful and protective contract that has been distributed throughout the state - all part of the Council's continuing educational policy of giving consumers the tools with which to help themselves in the marketplace.



#### IV. Consumer Legislation

The Council has filed the following bills with the Legislature for the 1977 legislative session:

1. An Act repealing advertising restrictions pertaining to certain professions and occupations (H. 43). This bill would enable consumers to receive price and other information concerning goods and services provided by pharmacists, podiatrists, dentists, funeral directors, barbers, electrologists, and chiropractors, and will prohibit the Boards of Registration from adopting other rules prohibiting advertising.
2. An Act increasing public representation of membership and strengthening the powers of the Boards of Registration (H. 44). This bill would require that, ultimately, a majority of the members of each Board regulating physicians, dentists, accountants, pharmacists, and other professionals, be consumer members (including ex officios) rather than members of the profession being regulated. It would retain a substantial number of licensed members to provide the necessary expertise relating to the profession.
3. An Act facilitating the use of the Consumer Protection Act (H. 45). This bill would amend the Massachusetts Protection Act to: (a) allow consumers to sue in Small Claims and District Courts rather than just Superior Court, as is now the case; (b) allow courts to fine businesses which commit unfair and deceptive practices; (c) raise the minimum amount of damages a consumer may recover from \$25.00 to \$100.00; and (d) allow consumers to sue for unfair and deceptive practices even if they do not result in a loss of money or property - such as debt collection harassment.
4. An Act assessing health-care providers and establishing a fund for consumer representation before the Rate Setting Commission (H. 46). This bill would follow the model established by the Legislature for the insurance and utility industries and assess health-care providers a relatively small sum of money to be reimbursable as part of their operation costs. The funds collected in this way would be used by the Consumers' Council to hire necessary attorneys, accountants, and other personnel to represent consumer interests before the Rate Setting Commission and other agencies in hearings and other proceedings relating to the cost and quality of health care.
5. An Act requiring pharmacies to provide certain

instructions and warnings to patients (H. 47). This bill would require pharmacies to provide patients with information found by the Board of Registration in Pharmacy to be related to the safe and proper use of prescribed medication.

6. An Act establishing a warranty of habitability for residential properties (H. 48). This bill would entail a warranty of habitability for residential property, guaranteeing the purchaser that the premises are fit for occupation, free of major defects, and conform to applicable codes and regulations.
7. An Act increasing the suspension period for gas, electric, telephone and telegraph cases from six to ten months (H. 49). This bill would extend - from six to ten months - the period of time in which the Department of Public Utilities must act on a rate increase requested by a utility before the requested increase automatically goes into effect.

The Council has filed the following bills with the Legislature for the 1978 legislative session:

1. An Act assessing health care providers and establishing a fund for consumer representation before the Rate Setting Commission (H. 2770).
2. An Act providing that the Department of Public Utilities shall establish maximum rates which may be charged for the storage of certain towed motor vehicles (H. 2749).
3. An Act prohibiting any agency of the Commonwealth or any sub-division thereof from regulating advertising relating to the sale price of consumer goods and or services (H. 2710).
4. An Act relative to electronic fund transfer systems (H. 2701).
5. An Act to create a motor vehicle board within the Division of Registration; to regulate relations among manufacturers, motor vehicle dealers, and consumers; to provide for the licensing of motor vehicle repair facilities and mechanics (H. 2750).

The Council has filed the following bills with the Legislature for the 1978 legislative session (as a result of the Council's forming the Consumer Legislative Coalition):

1. An Act providing \$250,000 in aid to local consumer agencies for handling consumer complaints (H. 3256).
2. An Act to protect consumers from abuses of new electronic computerized banking transactions (H. 2701).
3. An Act making it easier for individuals to sue under the State's Consumer Protection Act (H. 972, S. 121).
4. An Act giving consumers the right to stop auto loan payments when a dealer will not honor the guarantee (H. 973, S. 21).
5. An Act creating an independent advocate to oppose telephone company rate increases (H. 2159, S. 367).



V.. Warnings and Alerts (news releases)

1. The Council urged consumers to join the coffee boycott and send a message to Brazil.
2. The Council urged food manufacturers to open code date non-perishable food items (tieing in with Food Day).
3. The Council expanded its investigation to include other areas of towing abuse.
4. The Council joined the Lahey Clinic case on behalf of consumers.
5. The Council investigated the potential impact of Electronic Funds Transfer Systems.
6. The Council praised the telephone ruling giving married women equal status with their husbands as customers of the telephone company.
7. The Council continued hearings on the potential impact of EFTS.
8. The Council lauded the U. S. Supreme Court banning lawyer advertising as illegal.
9. The Council urged Representatives Heckler and Conte to support an Agency for Consumer Protection.
10. The Council urged Congress to protect consumers of Electronic Funds Transfer Systems.
11. The Council released a study on self-service gasoline stations.
12. The Council voiced support for new state regulations legalizing the operation of "split-island" gasoline service stations in the state.

VI. Public Information Efforts (Press Conferences)

1. The Council released a report detailing results of an investigation of the pharmacy profession in Greater Boston.
2. The Council released a study containing the findings and recommendations regarding the impact of self-service gasoline stations on the Massachusetts consumer.
3. The Council released a report containing findings and recommendations regarding towing practices in Greater Boston.



